

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

DANIEL THOMASON SMITH	§	
VS.	§	CIVIL ACTION NO. 1:20cv316
FCI BEAUMONT MEDIUM	§	

**ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Daniel Thomason Smith, an inmate confined within the Bureau of Prisons, proceeding *pro se*, filed the above-styled lawsuit. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the lawsuit be dismissed without prejudice as repetitious.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed a motion for clarification, which the court liberally construes as objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections. After careful consideration of plaintiff's filing, the court is of the opinion that the objections are without merit. The magistrate judge correctly concluded plaintiff asserted the same claim in civil action number 1:19cv218. Further, while plaintiff believes that case has been dismissed, the case remains pending. This lawsuit is therefore repetitious.<sup>1</sup>

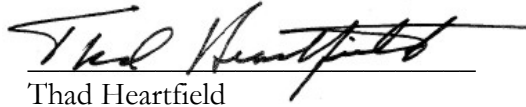
ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and the conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered in accordance with the

<sup>1</sup> Plaintiff asks that the documents he filed in this matter be added to civil action number 1:19cv218. If plaintiff wishes to add the documents in this case to the earlier case, he should seek leave of court in case 1:19cv218.

recommendation of the Magistrate Judge.

**SIGNED** this the **10** day of **November, 2021**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge